

House Bill 1087

By: Representatives Channell of the 116<sup>th</sup>, Golick of the 34<sup>th</sup>, Sheldon of the 105<sup>th</sup>, Cooper of the 41<sup>st</sup>, and Graves of the 12<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

To amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to provide a short title; to provide for legislative intent; to provide an exemption from insurance premium taxes for certain insurance products; to provide for the Commissioner of Insurance to adopt policies to promote, approve, and encourage health savings account eligible high deductible plans in Georgia; to provide for exemptions from certain unfair trade practices for certain wellness and health promotion programs, condition or disease management programs, health risk appraisal programs, and similar provisions in such plans; to provide for certain requirements for such plans; to provide for health reimbursement arrangement only plans that encourage employer financial support of health insurance or health related expenses under certain circumstances; to amend Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to income taxes, so as to provide for an income tax deduction for high deductible health plans established and used with a health savings account; to provide for an income tax credit for certain employers who provide high deductible health plans established and used with a health savings account; to provide for procedures, conditions, and limitations; to provide for powers, duties, and authority of the state revenue commissioner with respect to the foregoing; to provide for related matters; to provide for applicability and effective dates; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

This Act shall be known and may be cited as the "Insuring Georgia's Families Act."

**SECTION 2.**

Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by adding a new subsection (c) in Code Section 33-8-4, relating to amount and method of computing tax on insurance premiums generally, to read as follows:

1 "(c) Insurers shall be exempt from otherwise applicable state premium taxes as provided  
2 for in subsection (a) of this Code section on premiums paid by Georgia residents for high  
3 deductible health plans sold or maintained in connection with a health savings account  
4 under the applicable provisions of Section 223 of the Internal Revenue Code."

### 5 **SECTION 3.**

6 Said title is further amended by adding a new subsection (a.1) in Code Section 33-8-8.2,  
7 relating to amount and method of computing local insurance premium taxes on insurance  
8 companies other than life insurance companies, to read as follows:

9 "(a.1) Insurers shall be exempt from otherwise applicable local premium taxes as provided  
10 for in subsection (a) of this Code section on premiums paid by Georgia residents for high  
11 deductible health plans sold or maintained in connection with a health savings account  
12 under the applicable provisions of Section 223 of the Internal Revenue Code."

### 13 **SECTION 4.**

14 Said title is further amended by striking Chapter 51 in its entirety and inserting in lieu thereof  
15 a new Chapter 51 to read as follows:

### 16 **"CHAPTER 51**

17 **33-51-1.**

18 This chapter shall be known and may be cited as the 'Georgia Affordable HSA Eligible  
19 High Deductible Health Plan.'

20 **33-51-2.**

21 It is the intent of the General Assembly:

22 (1) To authorize the Commissioner to establish flexible guidelines for health savings  
23 account eligible high deductible plan designs which will be affordable to Georgians and  
24 to increase the availability of these types of plans by accident and sickness insurers  
25 licensed to transact such insurance in this state;

26 (2) To encourage the offering of affordable health savings account eligible high  
27 deductible plans, as required under the rules of the federal Internal Revenue Service  
28 related to the establishment of health savings accounts, with the specific intent of  
29 reaching many otherwise uninsured Georgians and the general intent of creating  
30 affordable comprehensive health insurance for all Georgians; and

31 (3) To enhance the affordability of insurance with the flexible health savings account  
32 eligible high deductible plans allowed under this chapter by allowing rewards and

1 incentives for participation in and adherence to health behaviors that recognize the value  
2 of the personal responsibility of each citizen to maintain good health, seek preventative  
3 care services, and comply with approved treatments.

4 33-51-3.

5 (a) The Commissioner shall develop flexible guidelines for coverage and approval of  
6 health savings account eligible high deductible plans which are designed to qualify under  
7 federal and state requirements as high deductible health plans for use with health savings  
8 accounts which comply with federal requirements under the applicable provisions of the  
9 federal Internal Revenue Code for high deductible health plans sold in connection with  
10 health savings accounts.

11 (b) The Commissioner shall be authorized to encourage and promote the marketing of  
12 health savings account eligible high deductible plans by accident and sickness insurers in  
13 this state; provided, however, that nothing in this Code section shall be construed to  
14 authorize the sale of insurance in violation of Chapter 3 of this title or interstate sales of  
15 insurance.

16 (c) The Commissioner shall be authorized to conduct a national study of health savings  
17 account eligible high deductible plans available in other states and to determine if and how  
18 these products serve the uninsured and if they should be made available to Georgians.

19 (d) The Commissioner shall be authorized to develop an automatic or fast track approval  
20 process for health savings account eligible high deductible plans already approved under  
21 the laws and regulations of other states.

22 (e) The Commissioner shall be authorized to promulgate such rules and regulations as he  
23 or she deems necessary and appropriate for the design, promotion, and regulation of health  
24 savings account eligible high deductible plans, including rules and regulations for the  
25 expedited review of standardized policies, advertisements and solicitations, and other  
26 matters deemed relevant by the Commissioner.

27 33-51-4.

28 Insurers that include and operate wellness and health promotion programs, disease and  
29 condition management programs, health risk appraisal programs, and similar provisions in  
30 their high deductible health policies in keeping with federal requirements shall not be  
31 considered to be engaging in unfair trade practices under Code Section 33-6-4 with respect  
32 to references to the practices of illegal inducements, unfair discrimination, and rebating.

33-51-5.

There shall be no required relationship between preferred provider and nonpreferred provider plan reimbursements for health savings account eligible high deductible plans using nonpreferred provider reimbursements. Such plans, however, shall not:

- (1) Unfairly deny health benefits for medically necessary covered services;
- (2) Have differences in benefit levels payable to preferred providers compared to other providers that unfairly deny benefits for covered services;
- (3) Have a plan coinsurance percentage applicable to benefit levels for services provided by nonpreferred providers that is less than 50 percent of the benefit levels under the policy for such services; or
- (4) Have an adverse effect on the availability or the quality of services.

33-51-6.

(a) The Commissioner shall be authorized to allow health reimbursement arrangement only plans that encourage employer financial support of health insurance or health related expenses recognized under the rules of the federal Internal Revenue Service to be approved for sale in connection with or packaged with individual health insurance policies otherwise approved by the Commissioner.

(b) Health reimbursement arrangement only plans that are not sold in connection with or packaged with individual health insurance policies shall not be considered insurance under this title."

## SECTION 5.

Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended by adding a new paragraph in subsection (a) of Code Section 48-7-27, relating to computation of taxable net income, to read as follows:

"(13.1) An amount equal to 100 percent of the premium paid by the taxpayer during the taxable year for high deductible health plans established and used with a health savings account under the applicable provisions of Section 223 of the Internal Revenue Code to the extent the deduction has not been included in federal adjusted gross income, as defined under the Internal Revenue Code of 1986, and the expenses have not been provided from a health reimbursement arrangement and have not been included in itemized nonbusiness deductions;".

## SECTION 6.

Said title is further amended by adding a new Code section to read as follows:

1 "48-7-29.13.

2 (a) As used in this Code section, the term:

3 (1) 'Qualified health insurance' means a high deductible health plan that includes, at a  
4 minimum, catastrophic health care coverage which is established and used with a health  
5 savings account under the applicable provisions of Section 223 of the Internal Revenue  
6 Code.

7 (2) 'Qualified health insurance expense' means the expenditure of funds of at least  
8 \$250.00 annually for health insurance premiums for qualified health insurance.

9 (3) 'Taxpayer' means an employer who employs directly, or who pays compensation to  
10 individuals whose compensation is reported on Form 1099, 50 or fewer persons and for  
11 whom the taxpayer provides high deductible health plans that include, at a minimum,  
12 catastrophic health care coverage which are established and used with a health savings  
13 account under the applicable provisions of Section 223 of the Internal Revenue Code and  
14 in which such employees are enrolled.

15 (b) A taxpayer shall be allowed a credit against the tax imposed by Code Section 48-7-20  
16 or 48-7-21, as applicable, for qualified health insurance expenses in an amount of \$250.00  
17 for each employee enrolled for twelve consecutive months in a qualified health insurance  
18 plan if such qualified health insurance is made available to all of the employees and  
19 compensated individuals of the employer pursuant to the applicable provisions of Section  
20 125 of the Internal Revenue Code.

21 (c) In no event shall the total amount of the tax credit under this Code section for a taxable  
22 year exceed the taxpayer's income tax liability. Any unused tax credit shall be allowed the  
23 taxpayer against succeeding years' tax liability. No such credit shall be allowed the  
24 taxpayer against prior years' tax liability.

25 (d) The commissioner shall be authorized to promulgate any rules and regulations  
26 necessary to implement and administer the provisions of this Code section.

27 (e) The credit allowed by this Code section shall apply only with regard to qualified health  
28 insurance expenses."

## 29 **SECTION 7.**

30 Sections 2, 3, 5, and 6 of this Act shall become effective on January 1, 2009, and shall be  
31 applicable to all taxable years beginning on or after January 1, 2009. The remaining sections  
32 of this Act shall become effective upon its approval by the Governor or upon its becoming  
33 law without such approval.

## 34 **SECTION 8.**

35 All laws and parts of laws in conflict with this Act are repealed.